

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TQP DEVELOPMENT, LLC

Plaintiff,

v.

MERRILL LYNCH & CO., INC., et al.,

Defendants.

Civil Action No. 2:08-cv-00471

TJW/CE

**JOINT MOTION TO DISMISS DEFENDANTS FIDELITY
INVESTMENTS, INC., FMR LLC, AND FMR CORPORATION
WITHOUT PREJUDICE**

Plaintiff TQP Development, LLC moves this Court pursuant to Fed.R.Civ.P. 41(a)(1) to dismiss all claims in the captioned action against Defendants Fidelity Investments, Inc., FMR LLC, and FMR Corporation without prejudice subject to those representations made by Fidelity Investments, Inc., FMR LLC, and FMR Corporation in that Affidavit dated May 14, 2009. Fidelity Investments, Inc., FMR LLC, and FMR Corporation do not oppose this motion. Each party has agreed that they shall bear their own costs.

Respectfully submitted this 15th day of May, 2009.

TQP Development LLC

Fidelity Investments, Inc.,

FMR LLC, and FMR Corp.

By its attorneys,

By their attorneys,

/s/ K. Glasscock w/perm R. Roberts

Kip Glasscock – LEAD COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ R. Ritch Roberts III

R. Ritch Roberts III